

DEPARTMENT OF DEFENSE

STATEMENT OF

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ON

INTERNATIONAL MARITIME SECURITY

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

**SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, &
INTERNATIONAL RELATIONS**

AND THE

**SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY, AND HUMAN
RESOURCES**

U. S. HOUSE OF REPRESENTATIVES

DECEMBER 13, 2005

Chairman Shays, and distinguished members of the Committee, thank you for the opportunity to testify as the Judge Advocate General of the Navy today on the legal aspects of threats to Americans on board ships traveling outside U.S. territorial waters.

Protecting the United States, its citizens, and interests from attack is our highest priority. Towards that end, the Navy will seek to interdict and defeat threats, wherever possible at a safe distance from the United States, its territories, and its possessions. More broadly, this requires maximizing awareness of security issues in the maritime domain in order to support U.S. forces and improve U.S. government actions in response to identified threats.

As stated by the Chief of Naval Operations, Admiral Mullen, in his Guidance for 2006, we are a nation and a Navy at war. “Whether providing sovereign deck space from which to launch air strikes in Afghanistan, continuing to support ground operations in Iraq, patrolling the seas to interdict terrorists, or shaping the maritime domain through swift humanitarian action in Indonesia and on our own Gulf Coast, we are contributing to joint and combined operations in ways no one could have imagined a few short years ago.”

The “Vision” portion of the CNO Guidance is particularly relevant today: “Americans secure at home and abroad, sea and air lanes open and free for the peaceful, productive movement of international commerce; enduring national and international naval relationships that remain strong and true; steadily deepening cooperation among the maritime forces of emerging partner nations; and a combat-ready Navy – forward deployed, rotational and surge capable – large enough, agile enough, and lethal enough to deter any threat and defeat any foe in support of the Joint Force.”

We must prevent the maritime domain from being used by terrorists, criminals, and hostile States to commit acts of terrorism, criminal, or other unlawful or hostile acts against the United States, its people, economy, property, territory, allies, and friends.

Towards that end, DoD has been actively involved in recent and significant maritime initiatives to better protect the United States, its citizens, and interests in the maritime domain. Some of those initiatives include the International Ship and Port Facility Security (ISPS) Code, amendments to the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA), and the Proliferation Security Initiative (PSI).

Regarding piracy, customary international law as reflected in the 1982 United Nations Convention on the Law of the Sea (The Law of the Sea Convention) recognizes piracy as a universal offense, and affirms the obligation of all States to cooperate in its repression. To be deemed piracy, the prohibited acts must take place on the high seas, outside the territorial waters of any nation. If acts that would constitute piracy on the high seas take place in another nation's territorial seas (generally within 12 nautical miles of a coast), they are not a universal crime and are generally subject to the jurisdiction of the coastal State (and is usually referred to as "armed robbery at sea"). On the high seas, all States have the authority to seize pirate vessels, arrest persons onboard, and apply its laws to the offenders.

The Commanding Officers of U.S. Navy ships have clear authority to repress piracy on or over international waters directed against any vessel or aircraft, whether US or foreign flagged.

The military is limited by statute in its ability to enforce U.S. law. Accordingly, DoD generally defers to agencies such as the Department of Justice and Department of Homeland Security on the investigation and prosecution of individuals responsible for crimes committed against U.S. citizens. Of course, DoD stands ready to act as needed to protect U.S. lives, property, or national security interests.

Chairman Shays and members of the Committee, thank you again for the opportunity to testify today. I will be happy to answer any questions you may have.